

SENATE COMMITTEE ON
WATER & LAND USE

Hearing Room
Tapes - 36

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Neil Bryant
Sen. Ron Cease
Sen. Bill Dwyer
Sen. Bob Kintigh

STAFF PRESENT:

Karen Quigley, Committee Counsel
Kimberly Shadley, Committee Assistant
Mitch Hack, Senate Floor Staff

MEASURES HEARD:

SB 509
SB 511
SB 510

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

CHAIR JOHNSON: Calls the hearing to order. (1:47)

PUBLIC HEARING ON SB 509

Witnesses: Kip Lombard, Oregon Water Resources Congress

025 KIP LOMBARD, OREGON WATER RESOURCES CONGRESS: Testifies in support; submits written testimony, (EXHIBIT A).

SEN. CEASE: Why is this in law?

LOMBARD: I haven't gone back; gives history on irrigation districts.

(Oregon laws contain cross provisions requiring compliance; if anyone wanted to enter into a contract with the federal government they had to comply with that contract.

095 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Other Western states don't have these provisions.

124 DOUG MYERS, WATER WATCH: Testifies in opposition, submits written testimony, (EXHIBIT B).

(We are worried that the bill may be an attempt to legitimize under state law water spreading that is occurring in violation of federal law or contracts.

(The last paragraph of my written testimony explains this well.

SEN. CEASE: If you remove these provisions the relationships between the

district and federal agency is dependent on the agreements or would still be dependent on federal law?

MYERS: Yes.

165 CHAIR JOHNSON: Getting consent to do minor flexibility kinds of things is a burdensome procedure.

SEN. CEASE: Do the agreements, or federal law, require that when they change boundaries they have to get approval of the Secretary of Interior?

200 LOMBARD: The repeal of this law doesn't change those relationships at all.

((In response to Sen. Dwyer) The Bureau has issued detailed regulations and sent them to the districts.

SEN. DWYER: What impact would this bill have on a persons ability to sue in state court?

(Would this limit their right to sue?

LOMBARD: No.

CHAIR JOHNSON: We will recess the hearing.

PUBLIC HEARING ON SB 511

Witnesses: Kip Lombard, Oregon Water Resources Congress

296 KIP LOMBARD, OREGON WATER RESOURCES CONGRESS: Testifies in support; submits written testimony, (EXHIBIT D).
(Our intent is to codify case law.

373 SEN. CEASE: The question is with a definition?

LOMBARD: Yes; explains.

SEN. DWYER: It would have to be a prolonged drought, over five years?

LOMBARD: That is right; we are trying to put in statute what is common law.

SEN. DWYER: How many water rights have we canceled in the last five years?

LOMBARD: I've handled a few.

435 VICE-CHAIR KINTIGH: If you could not use it for a few years but were planning on using it in the fourth or fifth year and a drought came, you'd be out?

LOMBARD: That is right.

SEN. DWYER: Why not "non-availability" as opposed to "drought"?

SEN. CEASE: If they can work out the definition the issue makes sense.

TAPE 36, SIDE A

PUBLIC HEARING ON SB 509

Witnesses: Joe Barkofsky, Legislative Counsel

SEN. CEASE: With the deletions, the district arrangements on how they can distribute the water would depend on the relationship with the federal agency?

(If we remove these provisions would they have the right to a case in state court?

066 JOE BARKOFSKY, LEGISLATIVE COUNSEL: SB 509 used language submitted by the Water Resource Congress; the changes don't make very substantive changes in law.

(In section two you have to look at subsection one; reads language, describes.

WORK SESSION ON SB 509

107 MOTION: SEN. BRYANT MOVES SB 509 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

111 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES.
CARRIER: BRYANT

PUBLIC HEARING ON SB 511

Witnesses: Doug Myers, Water Watch

119 DOUG MYERS, WATER WATCH: Testifies in support.
(I would like to leave "drought" in as opposed to non-use.

SEN. DWYER: The way drought is defined is the Governor declaring "drought"; I would rather use the lack of availability or some term.

CHAIR JOHNSON: The point is should the person who is ready willing and able to use water lose their right when water isn't available.

204 STEVE APPLGATE, WATER RESOURCES DEPARTMENT: We would like to see this clarified so the general public will understand how the law is applied.

CHAIR JOHNSON: Line nine, page two, can we cut off the last two words?

APPLGATE: That may be the best answer.

PUBLIC HEARING ON SB 510

Witnesses: Kip Lombard, Oregon Water Resources Congress

235 KIP LOMBARD, OREGON WATER RESOURCES CONGRESS: Testifies in support; submits written testimony, (EXHIBIT F).
(Section two paragraph six, involves storage in impoundment facilities.
(I have met with representatives of the forest industry and they have some

minor concerns and we have suggested the repealer provision which is confusing.

(I have amendments in my written testimony to make it clear, see Exhibit F.

400 LOMBARD: The requirement is for a statement that you do or don't; if you made the statement, you've complied and that wasn't the intent.

SEN. DWYER: Describes concerns.

SEN. CEASE: You and the department will work this out?

LOMBARD: Yes.

465 JOHN YOUNGQUIST, OREGON WATER RESOURCES CONGRESS: There are two changes in this bill that are important.
(Submits written testimony, (EXHIBIT G).

TAPE 35, SIDE B

040 YOUNGQUIST: Continues.

LOMBARD: I've talked with Pagel, we will work on the bill.

111 CHAIR JOHNSON: We are adjourned. (2:50 p.m.)

Submitted by, Reviewed by,

Kimberly Shadley	Karen Quigley
Committee Assistant	Committee Counsel

EXHIBIT SUMMARY:

- A - SB 509: Written testimony in support submitted by Lombard, pp 6
- B - SB 509: Written testimony in opposition submitted Myers, pp 2
- C - SB 509: Preliminary staff measure summary submitted by staff, pp 1
- D - SB 511: : Written testimony in support submitted by Lombard, pp 1
- E - SB 511: Preliminary staff measure summary submitted by staff, pp 1
- F - SB 510: Written testimony in support submitted by Lombard, PP 2
- G - SB 510: Written testimony in support submitted by Youngquist, pp 3
- H - SB 510: Preliminary staff measure summary submitted by staff, pp 1
- I - SB 511: Written testimony in support submitted by Pagel, pp 2